

Decision of the FIFA Disciplinary Committee

passed on 18 July 2022

DECISION BY:

Thomas HOLLERER (Austria), Member

ON THE CASE OF:

SEMASSI DE SOKODE

(Decision FDD-11340)

REGARDING:

Art. 9 RSTP – International Transfer Certificate

**Annexe 3a RSTP – Administrative procedure governing the transfer of players
between associations outside TMS**

I. FACTS OF THE CASE

1. The following summary of the facts does not purport to include every single contention put forth by the actors at these proceedings. However, the Member of the FIFA Disciplinary Committee (**the Committee**) has thoroughly considered any and all evidence and arguments submitted, even if no specific or detailed reference has been made to those arguments in the following outline of its position and in the ensuing discussion on the merits.
2. In June 2022, the FIFA Regulatory Enforcement Department provided the FIFA Disciplinary Committee and its secretariat with a report (**the Report**) concerning the club SEMASSI DE SOKODE, (**the Respondent**), affiliated to the Togolese Football Association (**FTF**), and the Beninese player Arnaud AKAKPO (**the Player**), born on 12 December 1999, containing the following case summary (*free English translation*):

"In the context of a claim for training compensation filed by the FTF on behalf of its affiliated club Semassi FC before the Dispute Resolution Chamber of the Football Tribunal (claim reference: 9110), it appeared that the player Arnaud AKAKPO had been transferred internationally without an International Transfer Certificate (hereinafter, "ITC") from his country of origin, Benin, where he was registered as a professional player, to Togo, where he was registered as an amateur player with the Togolese club Semassi FC.

Situation in TMS

No transfer instruction to commit the player has been entered in TMS.

It should be noted, however, that at the time of the alleged international transfer of the player from Benin to Togo (October 2018), the use of TMS for amateur players was not mandatory and the ITC procedure was carried out in accordance with Annex 3a of the Regulations."

3. The Report also included a summary of the Respondent's response to the investigation conducted by FIFA's Regulatory Enforcement Department (*free English translation*):

"1. According to the club, "the signing of the player Arnaud AKAKPO was a non-international transfer excluding any obligation to apply for the player's [ITC] with a foreign national association".

2. "...with a view to strengthening our squad for the 2018-2019 sports season, this player has been transferred to FC semassi under a loan from his football centre VAP FC (Lomé-TOGO).

3. In view of the above, the club is of the opinion that there was "no obligation to apply for an ITC following a domestic transfer of the player".

4. The club feels it is important to mention that their club "is neither a fully structured professional club nor a semi-professional club, but rather we are a purely 100% sports club and participate in a completely amateur league as well".

5. *"...it is clearly evident that we are logically in a basic data handicap situation unlike professional clubs playing in professional leagues; and clearly, the said situation as unfavourable as it is does not allow us to accurately transmit to you the full details of the player's registration, de-registration, or even worse, the establishment of a fair list of all the matches in which the player has taken part for our club.*

6. *The club also clarifies that "the player (from VAP FC) played for FC Semassi as an amateur.*

7. *Regarding the agreement with the player's training centre, the club clarifies that the idea "was for the player to come and gain experience with Semassi FC to get a better understanding and eventually be able to pass a test abroad to get a professional contract in the future."*

8. *"Meanwhile, our club had acknowledged that it had no rights, no major decision on any possible transfer of the player except for a small percentage of the amount of a possible transfer.*

9. *"In fact, as the player was coming from a football centre and therefore lacked experience, he obviously faced stiff competition in the club's defence team; an unfavourable situation which forced the player to leave the club the day before the Togolese mercato closed, i.e. in January 2019.*

10. *"Semassi FC understood at that time that the player had simply decided to return to his home club VAP FC. "*

4. Specifically, the Report contained reference to the following considerations from the FIFA Regulatory Enforcement Department in connection with potential violations of the Regulations on the Status and Transfer of Players (**the RSTP** or **the Regulations**) (*free English translation*):

"According to the information provided by the club, the player was not the subject of an international transfer, but was registered for his club following a domestic transfer from the Togolese football centre "Le centre VAP FC" on 15 September 2018 (Annex 2, page 4).

In this regard, it is important to note that in a parallel investigation, the FTF confirmed that the above-mentioned football centre is not affiliated to its federation. Therefore, it would appear that this football centre is not a club in accordance with definition no. 14 of the FIFA Statutes (August 2018) and that it is not in fact a domestic transfer between two FTF member clubs in accordance with definition no. 22 of the regulations (March 2022).

The player's former federation, the Fédération Béninoise de Football (hereinafter, "FBF"), in turn provided a player passport (Annex 4) confirming that the Beninese player would have been registered in Benin from 15 January 2015 until 31 October 2020. In particular, at the time of the player's registration with the FTF with the club Semassi FC on 1 October 2018, the player was registered as a professional player for the Beninese club Dragons FC.

Furthermore, according to information provided by the player's former federation, the FBF, it would appear that the only ITC it issued for the said player was issued to another federation, the Fédération Congolaise de Football-Association on 31 October 2020.

In this regard, the Regulatory Compliance team notes that Article 9 of the regulations seems clear that "a player registered with one association may only be registered with a new association once the new association has received an International Transfer Certificate (ITC) from the former association".

Therefore, and in view of the above, it would appear that at the time of his registration in Togo for the club Semassi FC, the player remained registered with the FBF and that he was thus registered with the FTF without having received an ITC issued by the FBF.

In addition, it should be mentioned that the club states in point 5 above that it cannot establish "a fair list of all the matches in which the player took part for" his club. In this regard, the Regulatory Compliance team notes that the FTF has confirmed in a parallel investigation that the player participated in several friendly matches for the club Semassi FC.

In this regard, the Regulatory Compliance team would like to remind you that according to article 5 of the Disciplinary Code (2017) a friendly match is defined as "a match organised by a football body, club or other person for teams designated for the occasion (...)". These are therefore matches played in the context of organised football as defined in definition no. 6 of the regulations. Thus, in order for an amateur player to qualify for such matches, the new association, in this case the FTF, would first have had to receive the ITC from the former association, the FBF, in accordance with the provisions of Annex 3a of the regulations."

5. On 27 June 2022, in view of the foregoing, disciplinary proceedings were opened against the Respondent with respect to potential breaches of arts. 9, and Annexe 3a RSTP. In particular, the Respondent was informed that the case would be referred to the next meeting of the FIFA Disciplinary Committee on 14 July 2022, and was invited to provide its position within six days of the notification of the opening of the disciplinary proceedings. Moreover, the Secretariat emphasized that the FIFA Disciplinary Committee would take a decision based on the documentation in its possession, should the Respondent fail to submit its position by the specified deadline.
6. No position was provided by the Respondent.

II. CONSIDERATIONS OF THE COMMITTEE

7. In view of the circumstances of the present matter, the Committee decided to first address the procedural aspects of the case, namely, its jurisdiction and the applicable regulatory framework, before entering into the substance of the matter and assessing the possible breaches of the RSTP by the Respondent as well as the potential sanctions, if applicable, resulting therefrom.

A. Jurisdiction of the FIFA Disciplinary Committee

8. First of all, the Committee noted that at no point during the present proceedings did the Respondent challenge its jurisdiction or the applicability of the FIFA Disciplinary Code (**FDC**).
9. Notwithstanding the above and for the sake of good order, the Committee found it worthwhile to emphasise that, on the basis of art. 53 FDC as read together with art. 25 (3) RSTP (June 2018 edition – see para. 10 *infra*), it is competent to evaluate the present case and to impose sanctions in case of corresponding violations.

B. Applicable legal framework

10. In order to duly assess the case at hand, the Committee began by first recalling the content and scope of the relevant provisions of the June 2018 edition of the RSTP, which is, in the Committee's view, the edition applicable to the present matter since the Player's registration with the FTF took place in October 2018, when the aforementioned edition was in force.
11. Accordingly, the Committee considered that the provisions of the RSTP relevant to the present proceedings were art. 9 (1) RSTP as well as arts. 2 (1) and 4 (1) of Annexe 3a of the RSTP, each of which are herewith quoted in their relevant parts below.

i. Art. 9 of the RSTP – International Transfer Certificate

12. This article stipulates as a prerequisite for the registration of a player who has been the subject of an international transfer (*i.e.* a player registered at one association and wishing to be registered at another association) the need to request, and receive, an International Transfer Certificate (**ITC**):

“1. Players registered at one association may only be registered at a new association once the latter has received an International Transfer Certificate (hereinafter: ITC) from the former association. The ITC shall be issued free of charge without any conditions or time limit. Any provisions to the contrary shall be null and void. The association issuing the ITC shall lodge a copy with FIFA. The administrative procedures for issuing the ITC are contained in Annexe 3, article 8, and Annexe 3a of these regulations. (...)”

13. Specifically, art. 9 (1) RSTP provides that players registered at one association may only be registered at a new association (and for the new club) after the latter has received an ITC from the former association. In so far that amateur players are concerned, said article is to be read in conjunction with the relevant provisions contained in Annexe 3a RSTP¹.

ii. Relevant articles of Annexe 3a of the RSTP

14. With regards to the procedure(s) for the international transfer of all amateur male and female players participating in eleven-a-side football (and futsal players) outside the Transfer Matching

¹ According to art. 1 of Annexe 3a RSTP, said annexe “governs the procedure for the international transfer of all amateur male and female players participating in eleven-a-side football and futsal players”.

System (**TMS**), the following provisions specify certain requirements with respect to their registration process. More specifically:

Art. 2 (1): *“Any player who is registered with a club that is affiliated to one association shall not be eligible to play for a club affiliated to a different association unless an ITC has been issued by the former association and received by the new association in accordance with the provisions of this annexe (...)”*

Art. 4 (1): *“All applications to register an amateur player must be submitted by the new club to the new association during one of the registration periods established by that association.”*

C. Standard of proof

15. The above having been established, the Committee recalled that the burden of proof lies with FIFA, which is required to prove the infringement under art. 36 (1) FDC.
16. Next, the Committee pointed out that, in accordance with art. 35 (3) FDC, the standard of "comfortable satisfaction" is the applicable standard of proof in disciplinary proceedings. According to this standard of proof, the onus is on the sanctioning authority to establish the disciplinary violation to the comfortable satisfaction of the judging body, taking into account the seriousness of the allegation.
17. Having clarified the foregoing, the Committee subsequently proceeded to consider the merits of the case at hand.

D. Merits of the dispute

I. Issues of review

18. Taking into account the above, the Committee, having reviewed the evidence at its disposal, proceeded to assess the facts of the present case to determine the potential violations of the RSTP committed by the Respondent.
19. In this sense, the Committee referred to the Report, which concluded that (*free English translation*) “[in] view of the above, it would appear that at the time of his registration in Togo for the club Semassi FC, the [Player] remained registered with the [Beninese Football Association] and that he was thus registered with the FTF without having received an ITC issued by the [Beninese Football Association]”.
20. With the foregoing in mind, the Committee decided first to set out the facts it considered relevant to the analysis of the present case:
 - a) The Player is of Benin nationality and was born on 12 December 1999;
 - b) According to the Player’s football passport issued by the Beninese Football Association (**BBF**), the Player was registered in Benin from 15 January 2015 until 31 October 2020;

- c) The Player was registered as an amateur by the FTF for the Respondent on 01 October 2018;
- d) At the time of said registration, the Player was registered as a professional player for the Beninese club Dragons FC.
- e) No ITC was requested nor received for the international transfer of the Player from the FBF to the FTF.
- f) With regards to the above-mentioned transfer from the FBF to the FTF, no transfer instruction to engage the Player was entered into TMS, the Player having been transferred outside of TMS².

21. In this context, the Committee noted that the aforementioned facts and information were not contested by the Respondent during the present proceedings. The Committee however noted that during the investigations conducted by the FIFA Regulatory Enforcement Department, the Respondent argued that the signing of the Player was a domestic transfer (*free English translation*) "*excluding any obligation to apply for the player's ITC with a foreign national association*" as the Player had been transferred to the Respondent "*under a loan from his football centre VAP FC (Lomé-TOGO)*".
22. Against such background, the Committee however observed from the case file that the FTF had confirmed that the Togolese football centre 'Le centre VAP FC' was not affiliated to the FTF and in this respect, concurred with the stipulations of the Report that the aforesaid football center was therefore (*free English translation*) "*not a club in accordance with definition no. 14 of the FIFA Statutes (August 2018)*" and that the Player's registration with the Respondent could therefore not be considered as the result of a domestic transfer between two FTF member clubs as argued by the Respondent (*free English translation*) "*in accordance with definition no. 22 of the [RSTP] (March 2022)*".
23. The foregoing being established, the Committee next proceeded to recall that an international transfer can be defined as the movement of the registration of a player from one association to another association. In view of this definition, the Committee could already conclude that the Player underwent an international transfer. Indeed, the latter was registered with the FBF and was subsequently registered as an amateur with the FTF for the Respondent in October 2018.
24. In light of the foregoing, the Committee proceeded to examine whether the Respondent complied with the applicable regulations related to the procedures governing the international transfer of players.

II. The Player's transfer in light of the applicable provisions of the RSTP

25. As determined above, the Committee found that in October 2018 the Player had been internationally transferred from the FBF to the FTF and registered as an amateur with the Respondent. Therefore, it was necessary for the Committee to examine whether the Respondent had complied with the relevant provisions related to international transfers of (amateur) players, specifically those in connection with International Transfer Certificates (art. 9 RSTP), and, by

² For the sake of good order, the Committee recalled that, at the time of the Player's transfer from Benin to Togo, international transfers of amateur players could be conducted outside of TMS (see Annexe 3a RSTP).

corollary, the rules concerning the administrative procedures governing the international transfer of amateur players between associations outside TMS (Annexe 3a RSTP).

26. Towards this end, the Committee recalled that as far as art. 9 (1) RSTP is concerned, said provision, read in conjunction with art. 9 (4) RSTP, stipulates the procurement of an ITC as a prerequisite for the registration of a player over the age of 10 with a new association and at a new club.
27. Turning to the present circumstances, the Committee remarked that the Player had previously been registered with a club affiliated to the FBF and had then subsequently moved to the 'new' club – the Respondent – which was affiliated to the 'new' association, namely the FTF.
28. In this respect, the Committee recounted once more that art. 9 (1) RSTP provides that players registered at one association, *in casu* the FBF, may only be registered at a new association – the FTF – (and for the new club, the Respondent) after the latter has (requested and) received an ITC from the former association (upon a request from the new club – cf. art. 6 (3) RSTP).
29. Against such background, the Committee wished to underline that it is the responsibility of both the (new) association and club (*i.e.* the Respondent) to verify the previous whereabouts of a player as well as the nature of the potential transfer and the relevant applicable regulations, before proceeding to the registration of the said player.
30. In particular, the Committee referred to CAS jurisprudence which already clarified that *"(...) both the registration and the ITC are prerequisites for a player to be eligible to participate in organised football. A failure to obtain an ITC must therefore be regarded as a violation separate from the failure to validly register a player. By the same token, a club's failure to obtain an ITC prior to the participation of the player concerned in organised football must be considered a violation of article 9 (1) FIFA RSTP"*³.
31. Consequently, in view of the foregoing, the Committee noted that in order for the Player to be registered for the Respondent, an ITC must have been requested and received from the FBF where the Player was previously registered – the latter being both mandatory for, and a prerequisite to, the aforesaid registration.
32. In this respect, the Committee however observed that there was no evidence on file that an ITC had been requested (nor received) for the Player prior to his registration as an amateur with the FTF for the Respondent. As such, and keeping in mind the aforementioned CAS jurisprudence, the Committee concluded that the Respondent was to be found liable for the breach of art. 9 (1) RSTP.
33. As a result of the aforementioned violation, namely that no ITC had been requested for the Player's transfer, the Committee also recalled that in accordance with the edition of the RSTP applicable to the present proceedings (June 2018 edn.), whenever a player is to be transferred between associations outside TMS and registered as an amateur (as *in casu*⁴), the relevant (administrative) procedure(s) for such international transfer must be carried out in accordance with the various provisions contained in Annexe 3a RSTP.

³ CAS 2016/A/4805

⁴ The player having been registered as an amateur player with the Respondent.

34. In this respect, the Committee recalled that in accordance with such provisions, Annexe 3a RSTP *inter alia* requires that i) in order for the player to be eligible to play for the 'new' club, an ITC must be issued by the former association and received by the new association, and; ii) that the 'new' club submits an application for the registration of said amateur player to the 'new' association (in the present proceedings, the FTF) during one of the registration periods established by that association.
35. Therefore, in view of the foregoing, the Committee could only conclude that as i) no ITC had been issued by the FBF and received by the FTF with regards to the international transfer of the Player outside TMS to the Respondent (where he was registered as an amateur), and; ii) there was no evidence on file that the Respondent had submitted an application for the registration of the Player as an amateur to the FTF, let alone during one of the FTF's established registration periods; the Respondent, on the basis of the above, had violated arts. 2 (1) and 4 (1) of Annexe 3a RSTP.

(1) Summary

36. In view of the foregoing, the Committee concluded that the Respondent, by its conduct as described above, had failed to comply with art. 9 (1) RSTP as read in conjunction with arts. 2 (1) and 4 (1) of Annexe 3a RSTP.
37. Therefore, the Committee held that the Respondent had to be sanctioned for the aforementioned violations.

III. The determination of the sanction

38. The violations of the RSTP by the Respondent having been established, the Committee subsequently considered the sanction(s) to be imposed.
39. The Committee observed in the first place that the Respondent is a legal person, and as such can be subject to the sanctions described under art. 6 (1) and (3) FDC.
40. For the sake of good order, the Committee underlined that it is responsible to determine the type and extent of the disciplinary measures to be imposed in accordance with the objective and subjective elements of the offence, taking into account both aggravating and mitigating circumstances (art. 24 (1) FDC).
41. As established above, the Committee recounted that the Respondent had failed to comply with art. 9 (1) RSTP and arts. 2 (1) and 4 (1) of Annexe 3a RSTP.
42. In this sense, the Committee examined all the circumstances pertaining to the case at stake and observed that the Respondent had no previous record(s) of any infringement(s) of the RSTP.
43. Moreover, the Committee subsequently remarked that according to the Respondent it is (*free English translation*) "*neither a fully structured professional club nor a semi-professional club*" and

participates in a “*completely amateur league*” – an element which the Respondent had considered important to mention.

44. Whilst this may be the case, the Committee wished to emphasize that such element(s) could in no way justify the Respondent’s failure to comply with the provisions of the RSTP as outlined above.
45. Therefore, taking into account the facts described in the present case, the Committee considered that the appropriate sanction to be imposed on the Respondent in relation to the violation of arts. 9 RSTP as well as the various provisions of Annexe 3a RSTP would be a fine.
46. In this regard, the Committee noted that according to art. 6 (4) FDC, a fine may not be lower than CHF 100 and greater than CHF 1,000,000.
47. Taking into account all the circumstances of the case, while keeping in mind the deterrent effect that the sanction must have on the reprehensible behaviour, the Committee considered a fine of CHF 10,000 to be adequate and proportionate to the offence. In particular, the Committee was satisfied that such amount would produce the necessary deterrent effect, whilst serving as a stern reminder to the Respondent to undertake all appropriate measures in order to guarantee that the FIFA regulations are strictly complied with.

III. DECISION OF THE DISCIPLINARY COMMITTEE

- 1. The club SEMASSI DE SOKODE is ordered to pay a fine to the amount of CHF 10,000 for having failed to comply with the relevant provisions of the Regulations on the Status and Transfer of Players related to the procedures governing the international transfer of players.**
- 2. The fine is to be paid within 30 days of notification of the present decision.**

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Thomas HOLLERER

Member of the FIFA Disciplinary Committee

NOTE RELATING TO THE PAYMENT OF THE FINE:

Payment can be made either in Swiss francs (CHF) to account no. 0230-325519.70J, UBS AG, Bahnhofstrasse 45, 8098 Zurich, SWIFT: UBSWCHZH80A, IBAN: CH85 0023 0230 3255 1970 J or in US dollars (USD) to account no. 0230-325519.71U, UBS AG, Bahnhofstrasse 45, 8098 Zurich, SWIFT: UBSWCHZH80A, IBAN: CH95 0023 0230 3255 1971 U, with reference to case number above mentioned.

NOTE RELATING TO THE LEGAL ACTION:

According to art. 58 (1) of the FIFA Statutes reads together with arts. 49 and 57 of the FDC, this decision may be appealed against before the Court of Arbitration for Sport (CAS). The statement of appeal must be sent to the CAS directly within 21 days of receipt of notification of this decision. Within another 10 days following the expiry of the time limit for filing the statement of appeal, the appellant shall file a brief stating the facts and legal arguments giving rise to the appeal with the CAS.